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Sequence Number: 03-22-24  
Rule ID(s): 10068  
File Date: 3/26/2024  
Effective Date: 6/24/2024

# Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

**Agency/Board/Commission:** Tennessee Board of Respiratory Care  
**Division:**  
**Contact Person:** Ashley L. Fine, Senior Associate Counsel  
**Address:** 665 Mainstream Drive, Nashville, TN  
**Zip:** 37243  
**Phone:** (615) 741-1611  
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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal
- Content based on previous emergency rule filed on \_\_\_\_\_  
 Content is identical to the emergency rule

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

| Chapter Number | Chapter Title  |
|----------------|--|
| 1330-01        | General Rules and Regulations Governing Respiratory Care Practitioners |
| Rule Number    | Rule Title   |
| 1330-01-.06    | Fees   |

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 1330-01  
General Rules and Regulations Governing Respiratory Care Practitioners

Amendments

Rule 1330-01-.06 Fees is amended by deleting paragraph (3), including its subparagraphs and parts, in its entirety and substituting instead the following language, so that as amended, the new paragraph, subparagraphs, and parts shall read:

| (3) Fee Schedule:               | Amount  |
|---------------------------------|---------|
| (a) Total Application Fee       |         |
| 1. Application Fee              | \$25.00 |
| 2. License Fee                  | \$25.00 |
| Total Application Fee           | \$50.00 |
| (b) Endorsement/Verification    | \$15.00 |
| (c) Late Renewal Fee            | \$50.00 |
| (d) Renewal (biennial) Fee      | \$75.00 |
| (e) Replacement License         | \$25.00 |
| (f) State Regulatory (biennial) | \$10.00 |
| (g) Upgrade Fee                 | \$20.00 |
| (h) License Fee                 | \$25.00 |

Authority: T.C.A. §§ 63-27-104 and 63-27-105.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

| Board Member              | Aye | No | Abstain | Absent | Signature (if required) |
|---------------------------|-----|----|---------|--------|-------------------------|
| Robert E. Farmer          | X   |    |         |        |                         |
| Jeffrey Craig Rooks       | X   |    |         |        |                         |
| Kira Anderson             | X   |    |         |        |                         |
| Gary Keith Lovelady, M.D. | X   |    |         |        |                         |
| Ray A. Davis              | X   |    |         |        |                         |
| Curtis D. Powell          |     |    |         | X      |                         |
| Kimberly D. Christmon     | X   |    |         |        |                         |
| Vacant                    |     |    |         |        |                         |

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Respiratory Care on 08/17/2023, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 05/16/2023

Rulemaking Hearing(s) Conducted on: (add more dates). 08/17/2023

Date: 9/13/2023

Signature: Ashley L. Fine


Name of Officer: Ashley L. Fine

Title of Officer: Senior Associate Counsel, Department of Health

Agency/Board/Commission: Tennessee Board of Respiratory Care

Rule Chapter Number(s): 1330-01

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

  
Jonathan Skrmetti  
Attorney General and Reporter  
Mar 23, 2024  
Date

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Mar 26 2024, 1:32 pm

Secretary of State  
Division of Publications

Filed with the Department of State on: 3/26/2024

Effective on: 6/24/2024

  
Tre Hargett  
Secretary of State

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no public comments received, either written or oral.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

1. **The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

The rule amendments do not overlap, duplicate, or conflict with other state or local governmental rules.

2. **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

The rule amendments exhibit clarity, conciseness, and lack of ambiguity.

3. **The establishment of flexible compliance and/or reporting requirements for small business.**

The rule amendments do not establish any new compliance and/or reporting requirements for small businesses.

4. **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

The rule amendments do not establish any new compliance and/or reporting requirements for small businesses.

5. **The consolidation or simplification of compliance or reporting requirements for large or small businesses.**

The rule amendments do not establish any new compliance or reporting requirements for large or small businesses.

6. **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rules.**

The rule amendments do not establish performance, design, or operational standards.

7. **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

The rule amendments do not create unnecessary barriers or stifle entrepreneurial activity or innovation.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The rule amendments should not have a financial impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Board is reducing the application fee from seventy dollars (\$70.00) to twenty-five dollars (\$25.00) and the license fee from eighty dollars (\$80.00) to twenty-five dollars (\$25.00). Therefore, the total application fee is also being reduced from one hundred and fifty dollars (\$150.00) to fifty dollars (\$50.00).

A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 63-27-104 grants the Board authority to establish fees for the profession.

Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The rules will benefit individuals seeking initial licensure from the Board as respiratory therapists.

Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The rules should not impact local government revenues or expenditures.

Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Ashley L. Fine, Senior Associate Counsel, Department of Health.

Identification of the appropriate agency representative or representatives who will explain the rule at scheduled meeting of the committees;

Ashley L. Fine, Senior Associate Counsel, Department of Health.

Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Department of Health, Office of General Counsel, 665 Mainstream Drive, 2nd Floor, Nashville, TN 37243, 615-741-1611, [Ashley.1.Fine@tn.gov](mailto:Ashley.1.Fine@tn.gov)

Any additional information relevant to the rule proposed for continuation that the committee requests;

None.

1330-01-.06 FEES

- (1) The fees are as follows:
- (a) Total Application fee - A fee to be paid by all applicants seeking initial licensure, including those seeking licensure by reciprocity. This fee consists of the Application Fee and License Fee. In cases where an applicant is denied licensure or the application file is closed due to abandonment, only the portion representing the License Fee will be refundable.
  - (b) Endorsement/Verification fee - A non-refundable fee to be paid for each certification, endorsement or verification of an individual's record for any purpose.
  - (c) Late Renewal fee - A Division-established non-refundable fee to be paid when an individual fails to timely renew a license.
  - (d) License Renewal fee - A non-refundable fee to be paid by all licensees. This fee also applies to individuals who reinstate a retired or lapsed license.
  - (e) Replacement license fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "initial" license.
  - (f) State Regulatory fee - A non-refundable fee to be paid by all individuals with all applications.
  - (g) Upgrade fee - A non-refundable fee to be paid by a respiratory assistant or a certified respiratory therapist when seeking to upgrade his/her authorization to practice respiratory care as provided in rule 1330-01-.21.
- (2) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Board of Respiratory Care.

| (3) Fee Schedule:               | Amount                    |
|---------------------------------|---------------------------|
| (a) Total Application Fee       |                           |
| 1. Application Fee              | <del>\$25.00</del> 70.00  |
| 2. License Fee                  | <del>\$25.00</del> 80.00  |
| Total Application Fee           | <del>\$50.00</del> 150.00 |
| (b) Endorsement/Verification    | <u>\$15.00</u>            |
| (c) Late Renewal Fee            | <u>\$50.00</u>            |
| (d) Renewal (biennial) Fee      | <u>\$75.00</u>            |
| (e) Replacement License         | <u>\$25.00</u>            |
| (f) State Regulatory (biennial) | <u>\$10.00</u>            |
| (g) Upgrade Fee                 | <u>\$20.00</u>            |



(h) License Fee \_\_\_\_\_ ~~\$25.00~~ ~~80.00~~

(4) The total application fee must be paid at the time of application.

Authority: T.C.A. §§ ~~4-3-1011, 4-5-202, 4-5-204, 9-4-5117,~~ 63-27-104, and 63-27-105.